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10/764,995	01/26/2004	Philip Stephen Smith	PA095.ap.US	6766
75035	7590	08/01/2008	EXAMINER	
Mark A> Litman and Associates, P.A. York Business Center 3209 w. 76th Street Suite 205 Edina, MN 55435			MOSSER, ROBERT E	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

(Continuing from box 11 of form PTOL-303)

I. The applicant challenges the holding of intended use of an apparatus, arguing that limitations directed to the proposed use of an apparatus are held in error as describing the intended use of the claimed invention. The Applicant is respectfully directed MPEP 2111.04 and 2106.II.C entitled "Review the Claims" wherein the latter is presented the following.

Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question

as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) "adapted to" or "adapted for" clauses,
- (C) "wherein" clauses, or
- (D) "whereby" clauses.

This list of examples is not intended to be exhaustive.

With regards to the above and reflective of the Applicant's own presented example of intended use presented in their remarks dated June 30<sup>th</sup>, exemplary claim 1 utilizes the terminology for on multiple occasions to attribute optional functionality to the display and processing portions of the claimed invention. While this example is not considered

exhaustive additional use of intended use are manifested in the Applicant's use of a wherein clause to describe the intended result of the claimed apparatus.

II. The Applicant Argues that the images as shown by the prior art of Toyoda are not per se merged. Respectfully the Applicant is applying a definition of the term merged of narrower scope than fairly presented by the terminology relied upon and more specifically the presentation of multiple images on the same video monitor is a merging of those video feeds even if as so pointed out by the Applicant the of Toyoda live video feeds is associated with a side by side arrangement rather than an overlaid type arrangement with regards to player portraits of figure 13c in Toyoda. The Applicant continues on pages 9 and 10 of their remarks dated June 30th to challenge the enablement of Toyoda for merging live video feeds and in the following breathe asserts that the merging of images shown on the player displays does not pertain to the specific presentation of a dealer against a live background. Respectfully the merging of live player images establishes the enablement of the invention of Toyoda for merging the image of the dealer with a dynamic live background.

III) On page 11 of the Applicant's remarks submitted June 30<sup>th</sup>, 2008 the Applicant suggests that the mask layer constitutes a third image. This assertion however is not in keeping with the traditional meaning of a graphical mask as a mask or mask layer traditionally asserts the defined image presentation regions and not a separate image as argued. Regardless thereof the prior art applied has been shown to demonstrate

the merging of multiple video feed images of player and game graphics on the same display. The Examiner's position that transference or duplication of this multiple merging feature from one display to another containing a dynamic image of a dealer would be an obvious modification of an invention is maintained in view of the rejections as presented in the final office action of April 28<sup>th</sup>, 2008.

The remaining remarks continue to argue either against the teachings of Toyoda individually or in combination with the teachings of Reynolds and Hazzard. The arguments for proposed novelty/non-obviousness of the claimed invention improperly rely on the use of method type limitations presented within the confines of apparatus type claims to define an proposed separation, argue a rejection based on obviousness based on criteria associated with novelty, and disregard the teachings of the prior art with regards to the combination of multiple images and image source onto a common display to attack the enablement of the combination. For at least the foregoing reasons the proposed novelty/non-obviousness of the claimed invention are non-persuasive.